

## **REMARKS**

This paper is responsive to the Office Action mailed March 22, 2006. No claims are canceled, amended or added herein. Claims 1-23 remain pending in the application.

Reconsideration of this application is respectfully requested in view of the following remarks. For the convenience and reference of the Examiner, the remarks of the Applicant are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicant notes that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

### **II. Claim Rejection Under 35 U.S.C. § 102(e)**

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure ("MPEP") § 2131.*

As an initial matter, Applicant notes that the Office Action Summary designates Claims 1-23 as being rejected. However, the Detailed Action portion of the Office Action sets forth a rejection of Claims 1 and 6 only. Therefore, Applicant respectfully requests that the Examiner clarify whether Claims 2-5 and 7-23 contain allowable subject matter. Should the Examiner continue to reject Claims 2-5 and 7-23, Applicant respectfully requests that the Examiner provide an explanation of why these claims are not considered patentable. *See 37 CFR § 1.104* ("In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command . . . . The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.").

In light of the foregoing, Applicant respectfully submits that the Examiner has failed to establish that claims 2-5 and 7-23 are anticipated, and the rejection of those claims should accordingly be withdrawn.

Turning now to the substance of the claim rejection, the Examiner rejects Claims 1 and 6 under 35 U.S.C. § 102(e) as being anticipated by *Islam* (United States Patent Publication No. 2003/0016437). Applicant respectfully disagrees.

In the rejection of claims 1 and 6, the Examiner has asserted that “Islam disclosed j1) a tunable laser source (1430, Figure 21A).” *Emphasis added.* However, the Examiner has failed to provide any evidence whatsoever from *Islam* in support of this assertion. In this regard, Applicant notes that in rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” 37 CFR 1.104. *Emphasis added.* Moreover, “[t]he goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” MPEP § 706. Applicant thus respectfully submits that the rejection made by the Examiner fails to comply with established examination guidelines.

Not only has the Examiner failed to provide any evidence to support the allegation that *Islam* discloses “a tunable laser source (1430, Figure 21A),” but it appears, in any event, that the disclosure of *Islam* contradicts the characterization advanced by the Examiner. Particularly, *Islam* states with regard to Figure 21A, cited by the Examiner in support of the rejection, that “One exemplary pumping scheme combines different LD’s at each of the pump wavelengths (Fig. 21(a)).” Paragraph [0136]. *Emphasis added.* Thus, this statement would seem to contradict the assertion of the examiner that the laser diodes of Figure 21a of *Islam* are tunable.

In light of the foregoing discussion, Applicant respectfully submits that the Examiner has failed to establish that *Islam* anticipates claims 1 and 6, at least because the Examiner has failed to establish that each and every element as set forth in claims 1 and 6 is found in *Islam*, because the Examiner has failed to establish that the identical invention must be shown in *Islam* in as complete detail as is contained in claims 1 and 6, and because the Examiner has failed to

establish that *Islam* discloses the elements of claims 1 and 6 arranged as required by those claims.

Applicant thus respectfully submits that the rejection of claims 1 and 6 should be withdrawn.

### **III. Docket Number**

Applicant respectfully notes that the Office Action incorrectly references Attorney Docket No. "GENOA-P003." Pursuant to the Change of Attorney Docket Number filed in this case on June 23, 2003, the correct docket number for this case is 15436.248.3. Applicant thus respectfully requests that all applicable USPTO records be updated accordingly, and Applicant further requests that all further communications from the USPTO reference docket number 15436.248.3.

**CONCLUSION**

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-23 is in condition for immediate allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 8<sup>th</sup> day of August, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. F. Malen Jr.", written over a horizontal line.

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